

PUBLIC DOCUMENT

COMMENTS ON BEHALF OF THE
CAN MANUFACTURERS' COALITION
ADDRESSING WRITTEN RESPONSES ON THE APPROPRIATE ACTION
UNDER SECTION 203 OF THE TRADE ACT OF 1974
WITH REGARD TO TIN MILL IMPORTS

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These brief comments are submitted on behalf of the Can Manufacturers' Coalition ("CMC") to respond to the limited comments submitted by domestic producers of tin mill products. Only three brief points are in order.

First, the request of the Minimill Section 201 Coalition that the President adopt the "separate injury views of Commissioner Bragg, Devaney and Miller as respects tin mill products" is exceptionally disingenuous.¹ As the domestic industry is well aware, and as the CMC has explained, Commissioners Devaney and Miller did not examine or provide separate injury views on tin mill products. They simply wrapped tin mill products in with all other flat rolled products and failed to consider the impact of tin mill products on the industry that a majority of the Commission found to constitute the industry producing a product like or directly competitive with tin mill imports, i.e., the domestic tin mill industry. The views of these two Commissioners should not, therefore, be taken as the views of the Commission.²

Second, the Minimill 201 Coalition recites various data concerning increases in imports of tin mill products,³ but fails to address the dramatic decline in tin mill imports that has occurred since the imposition of antidumping relief against Japanese imports in 2000.⁴ Moreover, while the domestic industry has noted the tin mill import increases from particular countries since 1999,⁵ they neglect to place these increases in context. Japanese tin mill imports into the United States were, prior to their surge in 1999, consistently in the range of 200,000 short tons per year,

¹ See Comments of the Minimill 201 Coalition, Jan. 4, 2002 at 13 n. 31 (hereinafter cited as "Minimill Comments at ___").

² See Can Manufacturers' Coalition's Comments to USTR on Appropriate Action Under Section 203 of the Trade Act of 1974 with Regard to Tin Mill Imports, Jan. 4, 2002, at 6-8 (hereinafter cited as "CMC's Comments at ___").

³ See Minimill Comments at 30.

⁴ See CMC's Comments at 12-14, 20.

⁵ See Minimill Comments at 30.

averaging 210, 415 short tons annually over the 1989-1999 period.⁶ The antidumping order issued against Japan in 2000, however, impacted all Japanese imports covered by the order and did not simply reduce Japanese volume to presurge levels. The “increased” imports mentioned by the domestic industry, while small in absolute terms, have not even replaced the stable level of longstanding, pre-surge Japanese supply.⁷ It is for this reason that, despite the small increases in volumes from certain countries in the wake of the Japan antidumping order, that overall non-NAFTA imports (which are declining) have already returned to their historical, pre-surge levels.⁸ The record before the President, based upon which three of the four Commissioners who looked at tin mill products rendered a negative determination, indicates declining tin mill imports and no likelihood of surges.⁹

Finally, the TPSC has requested that parties identify any information that has been provided to the TPSC that is different from that submitted to the Commission. CMC has not provided new information. However, the data contained at pages 13 and 14 of the comments submitted on January 4, were updated to reflect import data through October 2001, whereas analysis provided to the Commission necessarily relied on data available for imports through August. The trends and analysis are not impacted by the updating of the import data, and, in fact, confirm the validity of the data relied upon by the Commission.

For these reasons and the reasons detailed in the CMC’s January 4 submission to USTR, the Can Manufacturers’ Coalition respectfully submits that the International Trade Commission’s

⁶ See CMC’s Comments at 13.

⁷ For a complete discussion, see CMC’s Posthearing Brief on Remedy (Tin Mill Products), November 13, 2001 at 3-5.

⁸ See CMC’s Comments at 14.

⁹ See Certain Steel Products, Inv. No. TA-201-73, Vol. I: Determination and Views of Commissioners, USITC Pub. 3479 at 71-78 (Dec. 2001).

decision should be treated as a negative determination with respect to tin mill imports.

Accordingly, these imports should be excluded from any remedial measure taken in this safeguard proceeding.

Respectfully submitted,

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